

ONE HUNDRED FOURTEENTH CONGRESS
Congress of the United States
House of Representatives
COMMITTEE ON ENERGY AND COMMERCE
2125 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6115

Majority (202) 225-2927
Minority (202) 225-3641

February 11, 2016

The Honorable Sylvia Burwell
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Dear Secretary Burwell,

Pursuant to Rules X and XI of the U.S. House of Representatives, the Committee on Energy and Commerce is examining the operations of the Office of Refugee Resettlement (ORR) within the Department of Health and Human Services (HHS). The Committee is specifically focused on ORR's management and treatment of unaccompanied children while in its custody and in placing children with sponsors.

Since 2011, over 129,000 children have been apprehended at the border and placed in temporary ORR custody.¹ In fiscal year 2014, the number of unaccompanied children increased dramatically as over 57,000 children were placed in the care of ORR, and numbers soared once again this fall.² In the last three months, 17,370 unaccompanied children were apprehended at the Southwest border and placed into the custody of ORR.³ In comparison, 7,989 children were apprehended and placed in custody during the same time period last year.⁴

When unaccompanied children are apprehended at the border by Customs and Border Patrol officials, they are soon placed into the temporary custody of ORR. ORR is charged with caring for the child, and finding a suitable "sponsor," preferably a family member, to take custody of the child until the child must appear for an immigration proceeding. News reports

¹ Administration for Children and Families, Department of Health and Human Services, Fact Sheet, (last visited Jan. 28, 2016), *available at*: https://www.acf.hhs.gov/sites/default/files/orr/orr_uc_updated_fact_sheet_1416.pdf.

² *Id.*

³ United States Border Patrol, Southwest Border Sectors, Family United and Unaccompanied Alien Children Apprehensions FY 16 through December, *available at*: <http://www.cbp.gov/sites/default/files/documents/BP%20Southwest%20Border%20Family%20Units%20and%20UAC%20Apps%20-%20Dec.pdf>.

⁴ *Id.*

have called into question the health and well-being of unaccompanied children both while in the custody of ORR, and after ORR places children into the homes of sponsors. For example, a recent article in *The Washington Post* tells the story of an unaccompanied child placed with sponsors in central Ohio, who were later discovered to be human traffickers who forced the child to work 12 hours a day on an egg farm.⁵ The *Associated Press* highlighted six separate instances of abuse, including:

- A 14-year-old Honduran girl whose stepfather forced her to work over a period of several months at cantinas in central Florida where women drink, dance and sometimes have sex with patrons.
- A 17-year-old from Honduras sent to live with an aunt in Texas, who forced her to work in a restaurant at night and clean houses on weekends, and often locked her in the home.
- A 17-year-old Guatemalan placed with a friend's brother in Alabama who vowed to help him attend school, but instead was made to work in a restaurant for 12 hours a day to earn rent.
- A Central American teen placed with a family friend who forced her to cook, clean and care for a group of younger children in a Florida trailer park.
- A Honduran teen placed with a sponsor in New York City who was so physically abusive that she ran away and sought refuge in a shelter.
- A 14-year-old from Guatemala, who was sent to a sponsor's tiny apartment in Los Angeles where nine people lived, and was held for three weeks, deprived of food, and sought sanctuary at a nearby church.⁶

Federal law places responsibility for the unaccompanied child's health and well-being with HHS. The law states that "an unaccompanied alien child may not be placed with a person or entity unless the Secretary of Health and Human Services makes a determination that the proposed custodian is capable of providing for the child's physical and mental well-being."⁷ Further, the law prescribes that HHS must verify the custodian's identity and relationship to the child, if any, and find that the individual "has not engaged in any activity that would indicate a potential risk to the child" before placing the child with that individual.⁸ However, the Committee is concerned that relaxed standards and an emphasis on expediency have placed unaccompanied children in harms' way.

ORR officials acknowledged that, in recent years, their office relaxed standards for background checks of potential sponsors, including rolling back fingerprinting requirements, no longer requiring original copies of birth certificates, not completing forms requesting sponsor's

⁵ Abbie VanSickle, *Overwhelmed federal officials released immigrant teens to traffickers in 2014*, THE WASHINGTON POST, Jan. 26, 2016.

⁶ Garance Burke, *Feds' Failures Imperil Migrant Children*, THE ASSOCIATED PRESS, Jan. 25, 2016.

⁷ 8 U.S.C. 1232(c)(3)(A).

⁸ 8 U.S.C. 1232(c)(3)(A).

personal and identifying information, and eliminating FBI criminal history checks.⁹ Thus, it appears that ORR was derelict in its duty to protect vulnerable children and ensure their safety from nefarious individuals seeking to exploit them. Further, the Committee is concerned that ORR may have relaxed sponsor background checks, such as fingerprinting requirements, long before the surge of unaccompanied children in the summer of 2014, and that more children may be at risk.

In addition to grave concerns with ORR's placement process, the Committee is alarmed that ORR fails to ensure children are being cared for properly after they are placed with a sponsor. ORR only checks on children after they are placed with sponsors in a small number of cases. This leaves children without advocates and useful resources when they are placed in homes that are not suitable. In one story recounted in a recent *Associated Press* article, a social worker visited an apartment complex, where the government had sent more than a dozen children to live, to see if it was suitable for a new placement.¹⁰ According to Hilary Chester, associate director of anti-trafficking programs at U.S. Council of Catholic Bishops, the social worker found nothing but an empty apartment.¹¹ Ms. Chester was concerned "it could have been a front to have those kids released so that traffickers could get them into the workforce," and believes that "no one knows where the kids are."¹²

When asked about ORR's services after children are released to sponsors, ORR officials told committee staff that ORR's legal responsibility ended once a child was placed with a sponsor. ORR officials said that ORR had no statutory authority to take action post-placement, but ORR officials were unable to explain why or cite any statute limiting ORR's authority.¹³ Despite multiple requests, HHS has still not explained ORR's legal position to committee staff.

To better understand the issues surrounding the care of unaccompanied children in ORR's custody, please provide the following documents and information:

1. Why did HHS relax standards for background checks, fingerprinting and identity verification of potential sponsors? Explain all policy changes regarding placement of unaccompanied children with sponsors, and the dates of those changes, and the reasons for those changes, from January 2007 to the present.
2. Did HHS notify Congressional appropriators and committees of jurisdiction when policy changes were made concerning potential sponsors for unaccompanied children? Explain.
3. Has HHS changed any policies or standards regarding the immunization or communicable disease testing for unaccompanied children? If so, explain all policy changes, and the dates of those changes, and the reasons for those changes, from January 2007 to the present.

⁹ Garance Burke, *Feds' Failures Imperil Migrant Children*, THE ASSOCIATED PRESS, Jan. 25, 2016.

¹⁰ *Id.*

¹¹ *Id.*

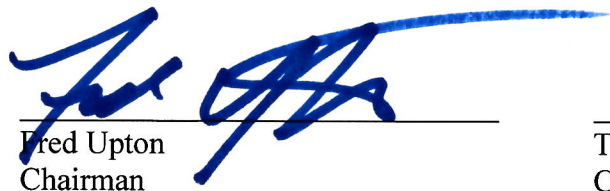
¹² *Id.*

¹³ Committee staff briefing with HHS ORR, December 16, 2015.

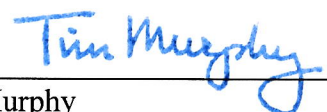
4. Have the job duties or requirements for child welfare officers or other staff within URM/ORR charged with monitoring the custody or care of children at ORR changed or evolved due to ORR policy changes? Explain any changes made, from January 2007 to the present.
5. How often has HHS terminated a sponsor for failing to protect the physical and mental well-being of an unaccompanied minor placed in their care? Explain the process.
6. On what grounds does HHS claim the Department has no statutory authority to ensure for the well-being of children after they are placed with sponsors? Please explain HHS's legal position. How is this position consistent with the Department's policy to follow up with some unaccompanied children after they are placed with sponsors in limited cases? If HHS has no authority, which agency does? Has HHS discussed this issue with other agencies such as the Department of Justice or the Department of Homeland Security? Explain.
7. Provide all documents and communications referring or relating to background checks, fingerprinting and any other identity verification processes for potential sponsors and/or their household members, including but not limited to internal policies, procedures, memorandum, and emails, from January 2007 to the present.
8. Provide all documents and communications referring and relating to the immunization or communicable disease testing for unaccompanied children, including but not limited to internal policies, procedures, memorandum, and emails, from January 2007 to the present.

Please provide the requested documents and information to the Committee no later than February 25, 2016. If you have any questions, please contact Emily Felder or Brittany Havens at (202) 225-2927.

Sincerely,



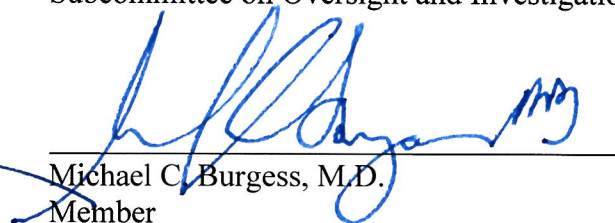
Fred Upton
Chairman



Tim Murphy
Chairman
Subcommittee on Oversight and Investigations



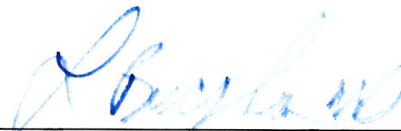
David McKinley
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Michael C. Burgess, M.D.
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Marsha Blackburn
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Larry Bucshon
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Bill Flores
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Markwayne Mullin
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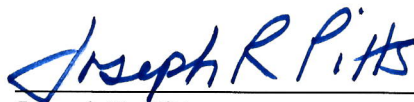
Richard Hudson
Member



Chris Collins
Member



Kevin Cramer
Member



Joseph R. Pitts
Member

cc: The Honorable Frank Pallone, Jr., Ranking Member